



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**IN THE MATTER OF THE COMPLAINT AGAINST
GATEWAY GENERATING STATION**

**BROUGHT BY ACORN, LOCAL CLEAN ENERGY,
ALLIANCE, CARE, ET AL.**

DOCKET No. 00-AFC-1C

ORDER No. 10-0217-02

COMMISSION ADOPTION ORDER

This Commission **ORDER** adopts the Proposed Decision of the Siting Committee on the Gateway Generating Station Complaint for noncompliance. The Proposed Decision is based upon the evidentiary record of these proceedings and considers the comments received at the February 17, 2010 business meeting. The text of the attached Proposed Decision contains a summary of the proceedings, the evidence presented, and the rationale for the findings reached and fines imposed.

FINDINGS

The Commission hereby adopts the following findings in addition to those contained in the accompanying text:

1. The Complaint filed by Californians for Renewable Energy ("CARE"), Bob Sarvey, and Rob Simpson, is dismissed based upon a determination of the insufficiency of the complaint and a determination of lack of merit.
2. The Gateway Generating Station (GGS) was constructed with a preheater different from the preheater approved in the Decision.
3. GGS was constructed with a diesel engine instead of the electric engine approved in the Decision.
4. The PSD permit is a federal requirement, so it is for the appropriate federal authorities, not the Energy Commission, to determine whether GGS was constructed or operated in violation of PSD requirements.
5. There is no substantive harm from the unapproved substitution of the preheater, because the new preheater has fewer emissions than the preheater approved in the Decision.

6. The substitution of the diesel engine for the approved electrical engine appears to have been made in good faith; that is, the diesel engine was installed in order to meet the directives of the local fire marshal. Moreover, although the diesel engine will probably cause greater adverse environmental impacts than the electric engine would have, the difference is not significant.
7. A fine of \$10,000 is appropriate.

ORDER

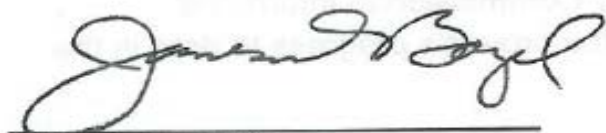
Therefore, the Commission **ORDERS** the following:

PG&E is ordered to pay \$10,000.00 to the Commission within 30 days of the date of this Order.

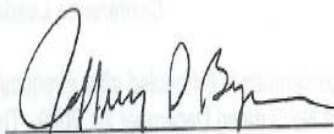
Dated: February 17, 2010, at Sacramento, California.



KAREN DOUGLAS
Chairman



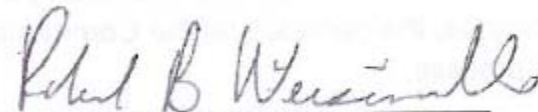
JAMES D. BOYD
Vice Chair



JEFFREY D. BYRON
Commissioner



ANTHONY EGGERT
Commissioner



ROBERT WEISENMILLER
Commissioner



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**IN THE MATTER OF THE COMPLAINT AGAINST
GATEWAY GENERATING STATION**

**Docket No. 00-AFC-1C
PROOF OF SERVICE**
(Revised February 11, 2010)

PROJECT OWNER

Steve Royal
Pacific Gas & Electric Company
Gateway Generating Station
3225 Wilbur Avenue
Antioch, CA 94509
sgr8@pge.com

PROJECT OWNER'S COUNSEL

Scott Galati
Galati-Blek LLP
455 Capitol Mall, Ste. 350
Sacramento, CA 95814
sgalati@gb-llp.com

INTERESTED AGENCIES

Alexander G. Crockett, Esq.
Assistant Counsel
Bay Area Air Quality Management
District
939 Ellis Street
San Francisco, CA 94109
scrockett@baaqmd.gov

California ISO
e-recipient@caiso.com

COMPLAINANTS

ACORN C/O
John Adams
2401 Stanwell Drive, Unit 320
Concord, CA 94520
caacornbpro@acorn.org

ACORN C/O
Deborah Behles, Esq.
Helen Kang
Lucas Williams, Graduate Fellow
Golden Gate Univ. School of Law
Environmental Law & Justice Clinic
536 Mission Street
San Francisco, CA 94105-2968
dbehles@ggu.edu
hkang@ggu.edu
williams@ggu.edu

Rory Cox
Local Clean Energy Alliance
436 14th Street
Oakland, CA 94612
rcox@pacificenvironment.org

CARE
c/o Bob Sarvey and Rob Simpson
27216 Grandview Avenue
Hayward CA 94542
sarveybob@aol.com
rob@redwoodrob.com

ENERGY COMMISSION

JEFFREY D. BYRON
Commissioner and Presiding Member
jbyron@energy.state.ca.us

* ROBERT WEISENMILLER
Commissioner and Associate Member
rweisenm@energy.state.ca.us

Kenneth Celli
Hearing Officer
kcelli@energy.state.ca.us

* Jack Caswell
Compliance Project Manager
jcaswell@energy.state.ca.us

Kevin W. Bell
Staff Counsel
kbell@energy.state.ca.us

Public Adviser's Office
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Maggie Read, declare that on February 22, 2010, I served and filed copies of the attached Commission Adoption Order, dated February 17, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

For service to all other parties:

 x sent electronically to all email addresses on the Proof of Service list;

 x by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

For filing with the Energy Commission:

 x sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below **(preferred method)**;

OR

 depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 00-AFC-1C
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.

Original signed by: _____
Maggie Read
Hearing Adviser's Office